

Applicant : Isaac Ostrovsky
Appl. No. : 10/017,534
Examiner : Patrick J. Connolly
Docket No. : 701470.19

Remarks

Claims 1, 3-63 and 74-87 are pending in this application, of which, claims 1, 16, 22, 33, 53, 58, and 74 are independent. All pending claims have been rejected. No claims have been amended in this response.

As to claims 1, 3-52, 58-63, and 74-87, these claims have been provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 11-20, 22-25, 27-37, and 41-48 of co-pending Application No. 10/020,040. Without acquiescing to the examiner's provisional rejections, the Applicant has submitted a terminal disclaimer, thereby overcoming the provisional rejections.

As to claims 53-55, these claims have been rejected under 35 USC 103(a) as being unpatentable over U.S. Patent No. 5,883,717 to DiMarzio et al. ("DiMarzio"). The applicants respectfully disagree.

To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In re Royka, 490 F.2d 981 (CCPA 1974); see also MPEP Sect. 2143.03. In the present case, while DiMarzio does disclose an interferometer that includes a recombining beam splitter that provides first and second resultant beams, wherein each resultant beam is directed to a polarizing beamsplitter that provides two output beams, each to a respective imaging system, DiMarzio does not disclose, teach, or suggest all the claim limitations of claim 53. Specifically, DiMarzio does not teach, disclose, or suggest an interferometer having a second beam splitter that generates two combined light beams from a sample light beam and a reference light beam, first and second detectors, each positioned to receive one of the combined light beams, and first and second polarization filters, each filtering light with respect to a different polarization, the first polarizing filter being between the second beam splitter and the first detector and the second polarizing filter being between the second beam splitter and the second detector.

As described in the specification, the two combined light beams generated by the second beam splitter may include polarization related information such as birefringence. By having each filter allow passage of light having a different polarization, birefringence measurements may be accomplished. Pg. 20, para. 62. DiMarzio does not teach or suggest such a structure.

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Accordingly, independent claim 53 and its dependent claims 54-57 are patentably distinguishable over the cited reference for at least the reasons above.

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Conclusion

Prompt and favorable action on the merits of the claims is earnestly solicited. Should the Examiner have any questions or comments, the undersigned can be reached at (949) 567-6700.

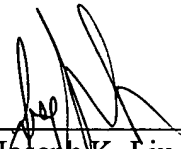
The Commissioner is authorized to charge any fee which may be required in connection with this Amendment to deposit account No. 15-0665.

Respectfully submitted,

ORRICK, HERRINGTON & SUTCLIFFE LLP

Dated: February 2, 2005

By: _____


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